

BOARD OF SELECTMEN/PUBLIC SAFETY SUB-COMMITTEE
MEETING OF FEBRUARY 13, 2012

PRESENT – Selectmen George A. Malliaros and Joseph DiRocco, Jr., Kevin Richardson, Chief of Police, David Chartrand, Deputy Chief, Police Officer James Quealy (NEPBA President Local 4a & 4b), Officers Wren Maddox, Jason George, Larry Flynn, Jonathan Seamans, Mike Fleury and Barbara Souza, recording secretary.

Mr. Malliaros called the meeting to order at 12:00 noon in the Class Room at the Central Fire Station on Pleasant Street.

Mr. Malliaros noted that this meeting is being held at the request of the Dracut Police Union.

Officer Quealy began by saying that the reason for the meeting is to go over the items that are on the agenda:

Item #1 – Mutual Aid in Regards to Outside Paid Details – Officer Quealy explained that for the last couple of years, Tyngsboro and Methuen have been working in town and believes the Sheriff's department along with retirees because they haven't been able to fill all their jobs; however since then they have been allowed to work in Tyngsboro and Methuen for over a year now and there have been no issues that he's aware of as far as working out of town and said they are going to try and work with the Chief on setting up a few more towns that they might be able to work in to give the officers more of an opportunity to possibly work outside of town on their days off for extra paid details at no cost to the town.

Mr. Malliaros said his understanding was that the reason this came into be, having the Tyngsboro police here, was that we didn't have enough Dracut police; but now if we have so many opportunities, "why don't you work in Dracut?" Officer Quealy responded that "it's seasonal" and said there are certain times of the year when they don't have any work. Following some additional comments, Chief Richardson added that nobody leaves town until all the jobs here in Dracut are filled first; once they are filled here and if somebody else calls in, then they will let their people go.

Mr. DiRocco commented that it just sounds like something that has to be worked out between the union and the Chief; the Chief does have the final say on it. Officer Quealy indicated they just wanted to give a "heads up" on it. Mr. DiRocco said it appears they are all working together, which is good.

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Item #2 – Health Insurance (recent proposed changes) – Officer Quealy said he understands that negotiations are underway right now but there are just a few things they would like to bring up which are basically just some concerns they have noting that Jason (George) is on that subcommittee and would address it.

Officer George said one of the major concerns would be is “why are we doing this?” Because of this section 19 bargaining they’ve had in place, what that has accomplished for the town and he does acknowledge that Dennis (town manager) has agreed to negotiate with them.

Mr. DiRocco said you are negotiating now and again on Monday, correct?

Officer George said yes, actually today and continued to say that he (manager) has agreed to that and according to the new state law, he doesn’t even have to do that so they do acknowledge that.

Mr. DiRocco said that is not exactly correct; sections 21, 22 and 23, if he understands it correctly have to be brought back to the board for their vote. Officer George agreed and said he (manager) hasn’t even implemented that; their understanding was that he (manager) was going to propose the changes to the Selectmen and then they would have that vote go back to them and they would have 30-days to put it in place but said he hasn’t even gone to that point; he’s agreed to meet with them prior to.

Mr. DiRocco said that’s a better way of doing it and said what he (manager) is trying to do is he doesn’t want the board to have to vote on 21, 22 and 23; if an agreement is reached then it’s over. Mr. DiRocco said they (board) are not a part of the negotiations so there is not too much they can say about it right at the moment.

Officer George continued to say that they are currently negotiating but the numbers he wanted to put out, section 19 was adopted in 2006 and at that point they dropped the Master Medical Plan which was an immediate savings of \$600,000 for the town and said some of that was used for their dental insurance which they did not have prior to that. Since that point Master Medical has gone up between 15 to 20 percent per year which again is more cost savings to the town. He believes that in 2007, Andy (Powell) presented to the Board of Selectmen an estimated one and a half million dollars in savings that was achieved through this public employee committee, Section 19 bargaining and over the last two years there has been no increases to the insurance except possibly

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Tufts. Officer George said he is putting the numbers out there just to show what they have accomplished with this public employee committee.

Officer Quealy wondered why if it hasn't gone up over the past few years, why are they coming after us and said they have already made concessions over the last five years.

Mr. Malliaros said it's a law that was passed by the Governor and the Legislature.

Following a few additional comments, Mr. DiRocco said we can't get into negotiations; it's just something we can't do here but feels the problem has been, from what he understands it to be, is we're paying out more then we're taking in. That's the only reason they are looking to do anything; if everything was paying for itself, then he doesn't think we'd be having this discussion. Discussion briefly continued.

Item #3 – Contract Negotiations Practices by the Town - Officer Quealy said as someone that has been on the negotiating team for the last four or perhaps five contracts, the way it's been working is the town is paying an attorney to be in the room and we're also paying the town manager to be there to negotiate the contract; everything is being deferred to the attorney and especially he (manager) just got a 13% raise by the town and he is still deferring everything to the attorney. Officer Quealy said it seems like we are wasting money on an attorney that we don't need to be wasting; that money could be saved and put back into contract issues that people could actually benefit from. He said it seems like a lot of money has been spent on attorneys in this town. He feels perhaps the board could think about directing the manager to negotiate without an attorney being there. Officer Quealy asked if that is a practice that has to be done.

Mr. DiRocco responded that he has been on both sides for many, many years and everything has become so technical; he is sure that the Manager is trying to get into a situation where he doesn't make an error and said it's the same, you (police) negotiate normally with a lawyer as well and it's because...it's that lawyer talk back and forth, things aren't as cut and dry as you'd like it to be. Officer Quealy said they don't have a lawyer sit in to which Mr. DiRocco replied that everything is looked at through an attorney.

Deputy

Chartrand suggested that maybe if there were some set parameters where both sides meet, just as a group, and say okay, we're

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going to try and have four or five work sessions, just us, and see if we can hammer through things.

Mr. Malliaros indicated that they will bring it to Mr. Piendak's attention and said he didn't even know that existed. Mr. DiRocco noted that he (Attorney Weinberg) does them all.

Item #4 – Vote of No Confidence Against the Chief & Deputy Chief – Officer Quealy indicated that they want to give an update on where that stands.

Officer Maddox said that before they speak to that, she said they need the Chief's permission to discuss a couple of the things because there are policies and procedures in place that disallow them from speaking about interdepartmental issues.

Mr. DiRocco interjected and reminded everyone that whatever gets said here becomes public.

Officer Maddox said they are limited to what they can speak to relating to interdepartmental issues per their policies; that being said, they are not going to discuss any one individual or any private issues but in order for them to discuss some of the issues that were brought up in the course of the no confidence vote, they are going to be discussing things that are within their department so they would therefore like the Chief's permission to speak to that.

Chief Richardson gave his permission.

Officer Quealy said some of the reasons brought up for the no confidence vote were lack of communication between management and the body; since then they've had a meeting with the patrol force and it was very productive. Another meeting is scheduled because there are more things they want to bring up but the communication has been open; that is one of the positive things that came out of it. Following some additional comments Officer Quealy indicated that progress is being made regarding the issue of communication.

With regard to the votes, Officer Maddox said they had 33 of 36 ballots returned; of those ballots 57% of the ones returned expressed no confidence in the Chief and 68% expressed no confidence in the Deputy Chief. She said the only reason they found that to be really significant is because there has been a myth that all of the issues are perpetrated by a

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disgruntled few individuals and the reality is, some of these issues are a little more wide spread. Officer Maddox continued to say that since that happened, some of the things that were addressed, for example, moral issues; some officers were complaining they felt that past personal issues diminished the ability to just say a simple "hello" in the hallway and the Chief has obviously put forward a good faith effort since this and it has been noted by numerous officers that efforts have been made since this has been brought forward. She said there have definitely been some positives, there are just some other things that they are looking to try and work out.

Officer Quealy said that a lot of the issues in the vote have been addressed. There are still some things that they are apart on but they are being worked on.

Mr. DiRocco asked where it stands at this point.

Officer Quealy said that another meeting is scheduled for April to continue working on some of the issues that were brought up. He said that previously it just seemed like a lot of the officers didn't have the opportunity to discuss things with management; they are now having that forum, they had one already and continued to explain the progress being made noting that they did have a good showing of the patrol force. That forum is there now and is hoping it is something they can build on. Following some additional comments, Officer Quealy said one of the issues and he knows they can't get into it too much is the "elephant in the room" and it's the fact that two guys were out on paid leave for a year. They were given information about why they were out and then there was a closed meeting for x amount of meetings on their hearings and then the town came to an agreement and that agreement had a gag order on it where no one could speak on it which left a lot of officers in that building without answers and they feel that the town owes them an answer. He said there needs to be a way for the town to get some sort of release to give to management because they are not allowed to talk about it either. Officer Quealy continued to say that we went from two guys out of work for a year and now they're back to work and nobody's allowed to talk about why they're back, but they're there and it's an issue that he feels they deserve an answer on from the town as in some sort of legal explanation where the Chief and the Deputy would be allowed to explain why they were out. He feels the town left them in a very bad spot; no one is allowed to talk about it and feels it is not fair to anyone involved. The only thing they got is what they read in the paper.

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Officer Maddox said even from a practical standpoint, not just the moral issue, they feel they should get an explanation because there was plenty of talk before hand but no talk after. Beyond that, practically speaking, we're now back to work with these officers with a tremendous amount of what is probably misinformation that was disseminated prior to them coming back; so even just responding to calls, making arrests, criminal and civil actions down the road, where do we stand as far as that goes; there are practical concerns that they have.

Mr. Malliaros said that, from a legal prospective, is a real can of worms simply because gag orders are very serious type of situations; he wasn't in the room when that was negotiated but certainly that was part of people who represent your union; the same people who wanted that type of protection for those officers, he thinks, and said he doesn't think the town drove that dynamic. Mr. Malliaros said he doesn't really know but he will look into it.

Officer Quealy said he feels they deserve some sort of answer.

Mr. Malliaros replied that he can't make them a real promise on that one because the last time he read that order, it was pretty clear that you just couldn't discuss the hearing, the evidence; it was like it never happened and said he can see that that is frustrating and feels everyone would be better served if everyone had more information but he is not so sure you can do that but he will certainly run that by Attorney Jim Hall.

Officer Quealy said it was like one day they were back to work with no explanation and they deserve some sort of explanation also. Mr. Malliaros said that's the key, "they", the "they" part of that and said he doesn't know what their attorney would have to say about that on their behalf but again said, he will find that out as well; it's a legitimate concern obviously, you're working with these individuals and you really don't feel secure.

Officer Quealy said it's just that they may have taken action against someone, whether it be a complaint or an arrest and he (Quealy) is the assist and that person now sues them, is he (Quealy) covered? "Am I covered by the town or do I have to get my own attorney?" "Whether it's frivolous or not, is it going to cost me out of pocket now because of some deal the town made?"

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Mr. Malliaros replied, practically speaking, has there ever been an instance where a police officer had to go in his or her pocket because of that happening?

Deputy Chartrand said he would say that anytime you are acting in your official capacity, and what you're doing is certainly within the parameters of the job, the town indemnifies you.

Following some additional comments, Officer George said that a lot of people are concerned with it; the explanation they were give when they went out was quite involved and then having zero explanation as to why all of a sudden they are back because they weren't allowed to speak about it, is a difficult thing to accept.

Mr. Malliaros again said he would speak to Attorney Hall about that and maybe we can speak to those two individual's attorneys; maybe they won't have a problem with sharing a certain amount of information, but there is a court order in effect and the court order would have to be addressed.

Mr. DiRocco commented that he doesn't know if this can be done or can't be done but would just like to throw it out there and asked if, under Policies and Procedures, is there anyway this can be done in-house? Mr. DiRocco said that these guys were found innocent and that's all we need to know; that's the agreement that was made but is there anyway it can be worked in-house as far as the whole police force.

Chief Richardson said he can't see how it can be without...at the very least if the union lawyers are willing to do it and said he has nothing to hide; if the union lawyers want to do it, tell them to give me a document and we'll address it.

Officer Maddox said it is just a tough position, we as police officers have an idea and understand it for the most part, we want good people next to us all the time and these two officers are returned and the guys that their entire year off was under was something that we all are sworn to defend against and then they're back and now we are in a position where the people who should have been giving us the right information, and said she doesn't mean this disparagingly at all, but the information they received from those above us was one thing, and now they are back and innocent and it is not a matter of whether we agree or disagree, they're innocent, that's it they're back to work; where do we go from here relating to arresting people side by side them.

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Mr. Malliaros said he can say, as a lawyer, he felt entirely uncomfortable with the whole thing that all he did at a Board of Selectmen's meeting was read the official document; that was it. The official document said that the police officers acknowledged that they had violated some departmental policies but that they didn't deserve a formal reprimand, or words to that effect; whatever the official language was, that's what got read and that's all they could share pursuant to the four corners of the document.

Officer Quealy said it's just that a lot of the people in the department feel it was a disservice to them, the agreement was signed without an explanation to them and now with the gag order in effect, everyone is handcuffed and now everyone is forming their own opinions and they are still getting different opinions whereas if they had one blanket "this is what happened, this is why it happened, here's where we stand", then they could all move forward. He feels the town did them a disservice by putting that gag order in place because now, no one can speak on it.

Mr. DiRocco said that having not sat there he's not sure whose decision it was or combination of both; they were given a report that said they were innocent so as far as he is concerned they're innocent; what was said prior to sounds like what your looking for the explanation for. Whether you are able to be given one or not, he doesn't know.

Mr. Malliaros said he can say clearly that he doesn't think that under any set of circumstances we're going to be able to talk about the evidence at the hearing that was produced; we're just not going to be able to do that.

Officers Maddox said but just how we went from one end of the spectrum so adamantly it is black, to all of a sudden it is white in the blink of an eye.

Mr. Malliaros: "meaning that they weren't formally disciplined?"

Chief Richardson: "they were formally disciplined."

Officer Maddox said yes they were disciplined but from all of the information they received as to why these officers were out and the circumstances surrounding it to them being back with...it's a wash; if it were anyone else in the world.

Mr. Malliaros said it was obviously a compromise that was entered into for probably many different reasons.

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Chief Richardson: "that I had nothing to do with."

Deputy Chartrand said he can certainly appreciate people wanting information and asking pertinent questions, but we weren't a party to any of the agreement but maybe some of the mindset that was there was just to end it at that point; what we're talking about here about going into information, that may prolong this issue where people are advocating on both sides again, their positions, and that continued struggle on both sides would probably be more detrimental to moving forward and past that issue.

Officer Maddox said she doesn't think that anyone is looking to refight the fight at all or create any kind of conflict.

Deputy Chartrand: "where do you draw the line on what kind of information?"

Officer Maddox said that's what we're asking; is there a way to...right up to the practicalities of it all to going back to work side by side with officers who have been accused of something pretty significant, we now answer calls with them, we're rolling on the ground with people with these officers, testifying in court with them, we just want to know where we fall, civil ally speaking, criminally speaking, liability down the line; is every case that we go to going to get kicked out now because of the public opinion that came before the innocent decision?

Chief Richardson said he understands exactly what (Officer Maddox) is saying.

Officer Maddox said they are not looking for the "guts" of the investigation because they understand that's private; just where do they stand as officers standing by these officers.

Officer Chartrand said that anytime you're acting in your official capacity as a police officer and you're performing those functions in an appropriate manner, anything that happens, you're indemnified by the town.

Officer Maddox asked, how do we speak to credibility issues when testifying side by side?

Deputy Chartrand said he can appreciate that you (Maddox) has concerns about that issue but said that is more of a responsibility of the

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District Attorney's office as to assessment of what witnesses they deem appropriate to put forward in a prosecution; your job is to put the case together prior to and it's the District Attorneys decision to make sure and to make decisions related to that so that that prosecution is successful; whether or not that is having certain people testify or not, that's their decision and is out of our purview.

Officer Maddox said absolutely, but as officers, we kind of run on the premise that we're automatically eligible to testify based on our professional capacity. Officer Maddox said she realizes this really can't be hashed out here, these are just questions that have come up and these are issues that have been raised. Following some additional comments, Officer Maddox said the (Deputy's) answer as far as the indemnification by the town is a good answer and they will be able to bring that back and hopefully allay some of the fears with that. She said it's tough when you have questions and nobody can give an answer to.

Discussion along those same lines continued. Mr. Malliaros suggested that perhaps another meeting should be scheduled down the road because this is a very serious topic and worthy of further consideration before we talk about it.

Item # 5 – Police Department Budget Comps vs. Surrounding Towns - Officer Quealy began by saying that this was brought up at their last patrolmen's/management meeting; Dracut, compared to other surrounding towns of similar size, our budget is far lower.

Deputy Chartrand said he thinks that overall we talk about moral and talk about issues like that and would say that probably one of the major factors for moral is lack of manpower and the lack of opportunity; everyone wants to come in a do a good job and strive for something; they want to strive to be promoted or strive for perhaps a specialty assignment – something to work towards everyday when they come in as an incentive to go that extra mile. He said we are basically frozen and have not gone forward; we have actually regressed. Looking at the demographics of our area, probably the most comparable to us is Tewksbury which they have a larger commercial base. He understands under municipal finance that's a major factor but from a police perspective, that doesn't play into our draw on services. We have a very large border with Lowell; Tewksbury has also but it's a different side of Lowell. The crime comes forward and we also have our own set of criminals so the draw on the services and the amount of cases that we deal with are probably significantly higher than Tewksbury. We are in a

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position where at present we have 38-officers. Discussion continued regarding the differences between Dracut and Tewksbury police departments. Following Deputy Chartrand's comments regarding the effects caused by the lack of manpower and resources, Mr. Malliaros asked him how many police officers he feels are needed to effectively fight crime and raise moral in the department. Chief Richardson said the most they've had since he's been around is forty-five. Officer Maddox said we have the same size police force now that they had in the 70's. Mr. Malliaros agreed that money does make people happy and that goes for every profession. General discussion continued.

Mr. DiRocco commented that the manager is in the process of preparing the budget and said what he looks at, at the end of the year is, he really doesn't see a lot of waste anywhere; dealing with the manager everybody knows that you're at bare bottom. Officer Quealy said except for his salary which he feels was a slap in the face to the rest of them. Mr. Malliaros said, in talking about his salary, in the event that they were replacing Dennis Piendak, we could be with a new town manager and he is told that the cheapest that we're going to pay a new town manager is \$140,000 a year who would be of an unknown quantity. Officer Quealy said that just from what he read, his buyout went up by a crazy amount by that raise. Mr. DiRocco said no it did not because he took a freeze on all his buyout package and said he (Dennis) didn't give himself the raise, we (Selectmen) set the bar and again said he took a freeze on all his buyouts, he froze his sick time and whatever accumulated time he had at the old rate. Mr. Malliaros added that we're paying what we would pay some new unknown and noted that that is at the low end of the scale.

Officer Maddox said coming in with a comparable medium police salary across Massachusetts, they are way lower and said that is kind of where they are coming from. Mr. DiRocco said he doesn't doubt it; if you look over the budget and if you look at the end of the year, our free cash keeps going down. That tells you that we're dishing out everything that we're taking in so as George said, the only alternative to that is to raise taxes to make more money. We're getting less from the State, less from the lottery so where does it come from. Mr. DiRocco said they support the police and fire, all of them, but where does the money come from.

Mr. Malliaros said he would really like to know money wise what we need in Dracut to make the police and schools better so that he can advocate for that and proceeded to give examples. Mr. DiRocco noted that most of them were against the meals tax and that is something you would never

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have felt and feels we just need to come up with ways to make more money.

Officer Maddox said it's just not a matter of making more money and said it seems they loose somebody else; they are loosing officers that they are not replacing in equal rates. They are loosing officer spots where all of a sudden they have a budget that says they have 39 officers now they have a budget that says they have 38; not only are they maintaining but it seems like they are going down each year and the population grows and crime grows. Following some additional comments, Officer Maddox said it feels like they are fighting an uphill battle.

Mr. Malliaros said as politically unpopular as it is, he feels the only solution is to increase taxes. Discussion continued.

Chief Richardson commented that his main concern with the manpower situation is the safety of his officers and proceeded to explain how many officers are out there on certain shifts noting that they cover 21 square miles with 30,000 people, right next door to Lowell and the other side of us is Lawrence. Discussion continued.

Deputy Chartrand suggested perhaps trying to set a 5-year plan whereby the police department is increased one person per year over an extended time frame so that there can be some prioritizing throughout the rest of the budget and said he is certainly not advocating departments fighting amongst each other for resources but said its significant in that public safety has to be a priority. More discussion continued.

Mr. Malliaros indicated that he would bring these concerns back to the town manager and in the mean time it was agreed that a second public safety subcommittee meeting should be set. The next meeting will be held on Monday, March 19th at 12:00 noon in the conference room at the Dracut Police Department and Mr. Malliaros said he will try and have some answers regarding the two police officers and will also talk to the manager about hiring more police officers.

The meeting adjourned at 1:05 p.m.

George A. Malliaros

Joseph DiRocco, Jr.
Board of Selectmen Public Safety Subcommittee